

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN DAVE LEWIS**, on January 13, 2003 at 3:00 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)
Rep. Edith Clark, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Tim Callahan (D)
Rep. Stanley (Stan) Fisher (R)
Rep. Eve Franklin (D)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Carol C. Juneau (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Musgrove (D)
Rep. Jeff Pattison (R)
Rep. Rick Ripley (R)
Rep. John Sinrud (R)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jon Moe, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 2, HB 64, HB 136, HB 158,
HB 160, 1/08/2003
Executive Action: None

HEARING ON HB 160**Sponsor:** REP. DICK HAINES, HD 63, MISSOULA**Opening Statement by Sponsor:**

REP. HAINES said the Natural Resource Damage Program was created in 1990 to pursue litigation brought against ARCO in 1983. Funding for this litigation has been approved for amounts ranging from \$5 million to \$1.6 million over five different bienniums. Money has been used for scientific studies, discovery efforts, outside counsel, expert witnesses, trial preparation and eventually settlement negotiations. Significant settlement occurred in 1998: the state received about \$230 million, \$130 million of which was placed in a trust fund administered by the Natural Resource Damage Program to pay for restoration of natural resources in the Clark Fork Basin. The settlement also included \$15 million used to reimburse the State's General Fund and Coal Tax Fund. All interest that was lost because the money wasn't available has been paid back too.

The settlement did not resolve three major claims for damages. They still total about \$200 million. For this they intend to pursue the litigation further. The 2001 Session provided for a maximum loan of \$990,000 for the current biennium from the Coal Tax Fund. Of that \$990,000 only \$341,000 has been spent. Some of the work to be done can come out of the Settlement Trust Fund because it is not litigation. Conversely the Supplemental Super Fund requires that Settlement Trust Fund money cannot be used for litigation that is why we need additional borrowing authority from the Coal Tax Permanent Fund. The borrowing authority can also be called a letter of credit.

If the State does not have the authority to borrow the \$650,000 it is very likely ARCO will not talk seriously and settle the claims at a reasonable value. On the other hand, if the State has the \$650,000 it is very probable that it will not spend the whole amount. Arco has to understand the State is serious about this and if they understand the state is serious, we probably won't have to get serious.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.7}

He believes the continuing litigation and negotiation will be successful. To date this program has brought in \$200 million to the State to remedy natural resource damage, has paid all litigation costs, reimbursed the Coal Tax Fund and made up the lost interest.

A three-fourths vote of each house of the legislature is required to pass the bill because it does incur debt.

Proponents' Testimony:

Attorney General McGrath spoke from Exhibit 1 and Exhibit 2.

EXHIBIT(aph06a01)

EXHIBIT(aph06a02)

Jan Sensibaugh, Director, Department of Environmental Quality,
and representing the **Governor** at this Hearing.

Judy Jacobson, Chief Executive, Butte-Silver Bow.

REP. STEVE GALLUS, HD 35, Butte

Linda Stoll, Missoula County

Peter Boyce, Chief Executive, Anaconda-Deer Lodge County

Jim Flynn, Member of the Governor's Advisory Council, Anaconda

Jeff Hagener, Director of Montana Fish, Wildlife and Parks
EXHIBIT(aph06a03)

Matt Clifford, Staff Counsel, Clark Fork Coalition

Opponents' Testimony: None

Questions from Committee Members and Responses:

In answer to a question from **REP. PATTISON, Attorney General McGrath** said what they are seeking to borrow is \$650,000, which is the cap. Last session they had authorization for \$990,000 and have only drawn out \$341,000. The most they can borrow from the Coal Tax Trust to pay for expenses is \$650,000 this biennium. The remaining claims are roughly \$200,000. **REP. PATTISON** asked if there is any interest costs incurred when they take a loan. **Attorney General McGrath** said, "Yes there is, and when they got the first partial settlement, they paid that back to the General Fund with interest and as they borrow money from the Coal Tax Trust they do the same. The interest rates are set by the Board of Investments."

{Tape: 1; Side: A; Approx. Time Counter: 5.3 - 23.6}

REPS. JAYNE, FISHER, LEWIS to **Attorney General McGrath** for further clarification.

Closing by Sponsor:

REP. HAINES closed the Hearing on HB 160.

HEARING ON HB 64

Sponsor: **REP. STAN FISHER, HD 75, BIGFORK**

Opening Statement by Sponsor:

REP. FISHER said this bill transfers the balance of a State-Tribal Economic Development State Special Revenue account to the General Fund. The balance remaining in the fund is approximately \$153,000. HB 670 in the 1999 legislature created a State Tribal Economic Development Commission and transferred from the General Fund to a State Special Revenue Fund \$200,000 to be used to develop economic development on the seven Montana Indian reservations. HB 21 in the 2001 special session extended the sunset to the Tribal Economic Development Commission. HB 2 contains an appropriation to spend the unpaid balance of the original \$200,000 which was approximately \$150,000. For various reasons the Office of Indian Affairs and the Tribal Economic Development Commission have not spent any of the 2003 biennium funds to date. This bill transfers the unspent balance currently residing in the State Special Fund back to the General Fund and this transfer is included in the executive budget.

Proponents' Testimony: None

Opponents' Testimony:

REP. CAROL JUNEAU, HD 85, Browning, received a letter from the Native American Development Corporation which reads as follows for the record: "Dear **REP. JUNEAU**: As executive director for the Native American Development Corporation, I would like to let you know, for the record, that our organization is totally against HB 64 introduced by **REP. FISHER**. The Native American Development Corporation has partnered with the state economic development commission, the Montana-Wyoming Tribal Leaders Council on a tribal development initiative. We have developed a strategic plan and have been working to complete our goals with each of the Tribes in Montana. This bill will disrupt the progress of our strategic planning with the Tribes and all our work up until now of existing Tribes in the improvement of the economy. I realize that you and all the Representatives have a difficult task ahead of you in dealing with the budget but please vote no for HB 64. Signed by Velma Pretty On Top Holeman,

Native American Development Corporation, Executive Director."

REP. JUNEAU said she also stands as a representative from HD 85 opposing this legislation.

REP. JONATHAN WINDY BOY, HD 92, and elected Director of the Tribal Council Member for the Chippewa-Cree Tribe.

REP. JOEY JAYNE, HD 73, Arlee, Salish-Kootenai Tribe.

REP. FRANK SMITH, HD 98, Fort Peck Tribes, testified for himself.

REP. VERONICA SMALL-EASTMAN, HD 6, Crow Reservation.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 17.2}

Bruce Plummer, a concerned Tribal member.

Toni Plummer, a concerned Tribal member.

Informational witness:

Lori Ryan, Governor's Office of Indian Affairs. said tribes face extreme unemployment and extreme poverty and the opportunity to have the involvement and foot in the door is great. But the State-Tribal Economic Development Commission has been very difficult along the way. The Commission has met to put together an assessment that the Commission itself was not pleased with. It has been very difficult to get all Commission members to attend meetings. There have been several telephone conference calls. The State-Tribal Economic Development Commission was not an approved organization for federal governments to be able to submit for federal funding. Tribal governments were funded individually with the HUD grant. There have not been any Economic Development Commission meetings since before that grant was submitted. **Ms. Ryan** said when it was brought to her attention that this could be a proposed budget cut for the office, she in turn contacted Tribal chairmen with the exception of one, to let them know this could be a proposed cut and asked for concerns. The concern they could lose the funding was there but the fact that it was a proposed cut, everybody was fine with that. That is the last communication she has had with Tribal chairmen and the one vice-chair.

Questions from Committee Members and Responses:

REP. KASTEN asked **Ms. Ryan** how much money was in the grant she applied for. **Ms. Ryan** said the grant that was applied for

through HUD was \$400,000. The Tribal Governments did support the grant as well as Commission members.

{Tape: 1; Side: B; Approx. Time Counter: 17.2 - 28.6}

REPS. JUNEAU, FRANKLIN, HAINES, MUSGROVE, BUZZAS, SINRUD to Ms. Plummer, Ms. Ryan and REP. WINDY BOY for further clarification and comments.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 29.4}

Closing by Sponsor:

REP. FISHER closed the Hearing on HB 64.

REP. JUNEAU asked for a point of personal privilege and an issue was discussed involving REP. JUNEAU, CHAIRMAN LEWIS and REP. FISHER.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 2.4}

HEARING ON HB 158

Sponsor: REP. DICK HAINES, HD 63, MISSOULA

Opening Statement by Sponsor:

REP. HAINES said this bill was requested by the Department of Public Health and Human Services, Human and Community Services Division. The bill is an act requiring a specific appropriation to fund the transfer of General Fund money to an Indian tribe or combination of tribes that have implemented a new Tribal Family Assistance Plan, stabilizing the temporary assistance for needy family maintenance of effort funds, making funded transfers to Indian tribes contingent upon the receipt of required reports.

In 1996 the Welfare Reform Law permitted tribes to operate their own Temporary Assistance for Needy Families, (TANF) programs in direct relationship with the federal government. In such cases, the State TANF block grant is reduced by the tribe's share which goes directly to the tribe. The State's Maintenance of Effort (MOE) request is reduced and that's the State's share of the program. The State is required to provide the tribe with a share of the State's General Fund, known as TANF MOE, or Maintenance of Effort.

The law also requires the State to give the tribe \$100,000 for the year the tribe implements its TANF program. Two tribes

currently have tribal TANF plans; Fort Belknap and the Salish-Kootenai. They will not receive any further \$100,000 allotments, which is a one-time only payment.

The Governor's budget contains adequate funding to cover the TANF MOE but not the \$100,000. He understands there may be tribes at this time who will want to implement this and go in direct relationship with the federal government for the TANF program. The difficulty comes in trying to budget and legislate for that.

Proponents' Testimony:

Hank Hudson, Administrator, Human Community Services Commission

{Tape: 2; Side: B; Approx. Time Counter: 2.4 - 11.3}

REP. JONATHAN WINDY BOY, Council Member, Chairman of Chippewa-Cree Tribe Social Services Program.

Toni Plummer, concerned Tribal member.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BUZZAS asked **Mr. Hudson** if this basically gives him the budget authority when those tribes meet the conditions authorizing appropriation of \$100,000. **Mr. Hudson** said the fiscal note is zero right now because they are not certain any tribe will develop a plan during the next biennium. However, **REP. WINDY BOY** indicated that decision is forthcoming. So in that case, to implement the law as it is written, (\$100,000 for each year) if this bill is passed and there is no appropriation, then there is no \$100,000.

Closing by Sponsor: **REP. HAINES** closed the hearing on HB 158.

{Tape: 2; Side: B; Approx. Time Counter: 11.3 - 16.5}

HEARING ON HB 136

Sponsor: **REP. STAN FISHER, HD 75, BIGFORK**

Opening Statement by Sponsor:

REP. FISHER said this is a bill on behalf of the Office of Budget and Program Planning. This bill eliminates \$175,000 annual General Fund as a statutory appropriation to the Office of Economic Opportunity. This appropriation was to be used to fund an office in Washington, D.C. The special session reduced the statutory appropriation from \$350,000 to \$175,000. The reduction is also included in the executive budget.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BUZZAS asked **REP. FISHER** why the money was never spent; it was appropriated two years ago. **REP. FISHER** did not know.

REP. MUSGROVE had a question concerning the fiscal note.
CHAIRMAN LEWIS advised there is one forthcoming.

In response to a question from **REP. FRANKLIN, Barbara Ranf, Chief of Staff, Office of the Governor**, said she would contact **Dave Gibson** to furnish some information. Basically, this is an annual appropriation so it has been spent in the past. As we entered into these financial times with the state, they looked at ways to reduce general funding in the Governor's office.

REP. JUNEAU to **CHAIRMAN LEWIS** for further clarification.

Closing by Sponsor: **REP. FISHER** closed the Hearing on HB 136.

EXECUTIVE ACTION ON HB 2

THIS ACTION APPLIED TO ONLY PART OF HB 2 AND DID NOT REPORT THE BILL OUT OF APPROPRIATIONS COMMITTEE

CHAIRMAN LEWIS said what the committee needs to do, and historically has done in every biennium, is a motion to strike everything after the title. The Fiscal Analyst then re-writes the bill. The motion needs to be made at this time. The chair has determined that the committee is in executive action on HB 2.

{Tape: 2; Side: B; Approx. Time Counter: 16.5 - 29.4}

REP. LEWIS, as the sponsor for the purposes of taking action said that motion was needed to strike the language after the title of HB 2.

Motion: **REP. HEDGES** moved to **STRIKE LANGUAGE BELOW THE ENACTING CLAUSE IN HB 2.**

Discussion:

REP. BUZZAS asked **CHAIRMAN LEWIS** for clarification concerning HB 2 and why this motion had to be made at this time. **Todd Everts, Legislative Staff Attorney, Legislative Services Division** said according to **Mr. Petesch**, it is within the discretion of the Chair. **Clayton Schenck, Legislative Fiscal Analyst**, said HB 2 is always introduced by the executive budget and at some point in time the entire bill after the enacting clause had to be struck and start with zero.

REPS. BUZZAS, CALLAHAN, to **Mr. Schenck, Mr. Everts** and **CHAIRMAN LEWIS** for further explanation.

Vote: **REP. HEDGES'** Motion carried 11-8 with **REPS. BUZZAS, CALLAHAN, FRANKLIN, JAYNE, JUNEAU, KAUFMANN, LINDEEN AND MUSGROVE** voting no by roll call vote.

Discussion:

REPS. LINDEEN, JAYNE, BUZZAS, CHAIRMAN LEWIS, and **WITT** for further clarification.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 24.4}

ADJOURNMENT

Adjournment: 5:25 P.M.

REP. DAVE LEWIS, Chairman

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT (aph06aad)